IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

LIBERTY GUARD, INCORPORATED, Plaintiff, v. TRANSPORTATION SECURITY ADMINISTRATION, Defendant.	)	Case No. 1:13-cv-200-GBL-TCB

ORDER

THIS MATTER is before the Court on Plaintiff's Motion for Extension of Time to File a Response to Defendant's Motion for Summary Judgment (Doc. 17). Defendant filed a Motion for Summary Judgment on June 25, 2013. (Doc. 13.) Pursuant to the Court's Scheduling Order, Plaintiff was required to file its Consolidated Opposition to Defendant's Motion and Cross-Motion for Summary Judgment no later than July 16, 2013. (*See* Doc. 12.) Hearing on the motions was to be held August 16, 2013. (*See id.*) Having filed no response prior to the hearing date, Plaintiff now requests, one month after the Court-ordered deadline, an extension of time to file its response. Where a party's request for an extension is made after the relevant deadline has passed, the Court may only grant such a request where excusable neglect occurs. *See, e.g.*, *Thompson v. E.I. DuPont de Nemours & Co.*, 76 F.3d 530, 534 (4th Cir. 1996). This is a very high bar that is met only be extraordinary cases where injustice would otherwise result. *Id.* A party's failure to act with diligence precludes a finding of excusable neglect. *Robinson v. Wix Filtration Co.*, 599 F.3d 403, 413 (4th Cir. 2010). Plaintiff's counsel explains his failure to timely file as a result of his error in putting the correct briefing schedule on his calendar. (Pl.'s Mot. at 1, Doc. 17.) This sort of "run-of-the-mill inattentiveness," attributable solely to counsel rather than external factors beyond his control, is not "extraneous to nor independent of counsel's negligence" such that it meets the high standard of excusable neglect. *Symbionics Inc. v. Ortlieb*, 432 F. App'x 216, 220 (4th Cir. 2011) (finding an abuse of discretion where the district court "determined that [a] calendaring error constituted excusable neglect"); *see also Anthony v. Small Tub Mfg. Corp.*, 484 F. App'x 704, 709-10 (3d Cir. 2012) (affirming the district court's decision not to extend time where plaintiff never received electronic notice of defendant's filing because "the delay was solely attributable to [plaintiff's] counsel"); *Shorette v. Harrington*, 234 F. App'x 3, 5 (2d Cir. 2007) ("[T]he law office calendaring error Shorette blames for his failure to follow the local rules does not constitute 'excusable neglect.'" (citations omitted)). Thus, counsel's error in noting the correct dates on his calendar cannot justify a post-deadline extension request. Accordingly,

It is hereby **ORDERED** that Plaintiff's Motion for Extension of Time to File a Response (Doc. 17) is **DENIED**.

IT IS SO ORDERED.

ENTERED this 22nd day of August, 2013.

Alexandria, Virginia
8/22/2013

/s/
Gerald Bruce Lee
United States District Judge